

REMARKS

Reconsideration is respectfully requested of all claims under prosecution. Claims 1, 3, 15-18, 20-21, & 26 are presented herein. Claim 1, the sole independent claim, has been amended to better clarify the invention. Applicant appreciates the suggestions by the Office and have inserted these in Claim 1. Specifically the phrase “having upper and lower fabric surfaces” has been inserted (along with associative grammatical corrections) and the phrase “formed from two single plies, each ply” has been deleted; the word “board” has been inserted after the word “chess”; and the phrases “a same side of” and “is made of two different single plies” have been deleted and the phrase “have different upper or lower fabric surfaces” has been inserted. Basis for these amendments is found by the inspection of Figures 2, 4a, 4b, & 4c and the discussion thereof in the specification, for example page 7, line 20 to page 8, line 10. The fiber types “synthetic fibers and filaments, artificial fibers and filaments” have also been deleted from Claim 1.

Claims 15 and 16 have been amended to better clarify the size of the pockets by the addition of the word “size” and the deletion of the wording “each side of”. Basis for these amendments is found on page 8 lines 24 to 32 of the specification.

Claim Objections

The Office objected to Claim 1 because the term “chess design” would be more clear if the applicant used the term “chess board design” instead. Claim 1 has now been amended as suggested and it is believe this rejection is now made moot. Applicant appreciates the Office’s suggestion.

Rejection Under 35 U.S.C. §112, Second Paragraph

Claims 1, 3, 15-18, 20-21, and 26 stand rejected under 35 U.S.C. §112, second paragraph, as failing to particularly point out and distinctly claim the

subject matter which the applicant regards as the invention. In particular, the Office considers the term “ply” to be indefinite. While Applicant believes the word “ply” is definite and adequately supported in the specification, Claim 1 has been amended to further prosecution. Applicant thanks the Office for the suggestion that the woven fabric recited in the claim would be clear if the term “ply” could be avoided and instead use terms which are clearly talking about only the upper and lower fabric surface in each pocket. All claims have been amended as suggested and it is believed that this rejection is made moot.

Rejection Under 35 U.S.C. §103(a)

Claims 1, 3, 15-18, 20-21, and 26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over WO 03/039280 (English Translation) in view of Faircloth (US 3,59, 610). Applicant respectfully submits that the combination of these two references does not provide for the presently claimed invention, and incorporates herein the statements made in the March 1, 2010 response. The Office states on page 4 of the present action, in regards to these two references, that

“However, the prior art fails to teach the specific weave pattern, wherein the thermally sensitive fibers are woven together so as to obtain a chess board design such that the adjacent pockets are formed from different materials.”

Accordingly, since the reference teachings fail to meet each and every limitation of the invention as now claimed, no *prima facie* case of obviousness can be said to exist.

The Office further states on page 5,

“Thus it would have been obvious to one of ordinary skill in the art that the weave pattern of the multi-layered could be modified to create various patterns, that use the thermally sensitive yarns in both the warp

and weft direction to create various fabrics with various puckering patterns including a chess board puckering pattern.”

This statement is traversed. The Office’s position is clearly a hindsight conclusion based on the present application. The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention.

Further, Claim 1 has now been amended to remove any fiber types that could possibly read on the elastic yarns of Faircloth. Faircloth discloses a multiply fabric having resiliency and elasticity which upon being deformed is capable of returning repeatedly to its original shape after removal of the deforming forces (Col 1, lines 45-57). This is accomplished by the use of elastic yarns such as polyurethane or spandex yarns, which are known to be the highly flammable and are totally inappropriate for heat, flame, and electric arc resistant fabric. Therefore, one skilled in the art would not be motivated to combine any teaching of fabrics from Faircloth with the disclosure of WO 03/039280.

The Office further states on page 5 that:

“The applicant has not provided evidence that the specific pocket structure claimed would have unexpected results as compared to the puckered fabrics of in the prior art.”

The statement is also traversed. In the specification, Applicant states on page 8, lines 20-24 that

“A square pockets structure confers optimal flexibility to the fabric of the invention and it provides superior visual aesthetics. Such fabric structure is also easier to be formed into a garment since the functionality of the square pockets is not affected by their orientation in the garment itself.”

This is a distinct improvement over the channeled structure of WO 03/039280; where a garment designer is challenged with how to orient the

channels in a garment, e.g., “parallel to” or “perpendicular to” a leg or an arm. This is especially challenging because the shrinkage of the fabric, upon exposure to a thermal event, will be different “perpendicular to” or “parallel to” the channel. The presently claimed invention provides a fabric that intuitively has more balanced shrinkage performance when exposed to a thermal event due to the presence of a square pattern. This feature is certainly not taught or disclosed in any of the cited references.

In view of the foregoing, allowance of the above-referenced application is respectfully requested.

Respectfully submitted,

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Dated: November 04, 2010